SECTION 3

PHRÓNĒSIS IN THE PRACTICE/ CONDUCT AND REVIEW/ GOVERNANCE OF SOCIAL SCIENTIFIC RESEARCH

CHAPTER 9

ETHICAL REGULATION OF SOCIAL RESEARCH VERSUS THE CULTIVATION OF PHRÓNĒSIS

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ABSTRACT

This chapter argues that there is conflict between the requirements laid down by the regimes of ethical regulation that have been introduced in many countries over the past few decades and what is required if social research is to be done well, not least in ethical terms. The reasons for the rise of ethical regulation are outlined along with the criticisms that have been made of it by social scientists. One aspect of this criticism has been an emphasis on the necessarily situational character of ethical judgement, the potential conflicts amongst values, and the ways in which ethical considerations are entwined with methodological and prudential ones. These points have often been formulated via the concept of phrónēsis (wise judgement). The meaning of this is outlined, as well as how the need for such judgement conflicts with the assumptions built into the operation of ethical regulation. It is suggested that these assumptions, as embedded in many official statements, amount to a form of moralism that is counterproductive if good research that is ethically acceptable is to be encouraged. It is argued that ethics committees should not exercise control over what research is done

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but ought rather to serve as forums in which researchers are forced to justify the design of proposed research studies, and to address any ethical issues arising from research that they have already carried out.

Keywords: Phrónēsis; virtue ethics; social research; research ethics

INTRODUCTION

This chapter focusses on the sharp tension between the 'creep' of ethical regulation from the fields of medicine and psychology across the whole of social science (Haggerty, 2004) and the practical requirements of doing social research in ways that are ethically satisfactory. What is meant by 'ethical regulation' here is the operation of ethics committees, located in universities and other organisations, that decide whether or not particular research projects can go ahead, and on what terms. In the United Kingdom, and some other countries, this is a relatively new process, becoming established over the past 20 years. By contrast, in the United States, Institutional Review Boards (IRBs) have been in operation for several decades.

In part, the rise of ethical regulation reflects a now dominant feature of much public sector management: the drive for so-called 'transparent accountability' which requires members of professions continually to *demonstrate* that
AQ1 what they do is effective and efficient (Diefenbach, 2009; Pollitt, 1990; Power, 1997). This has been closely associated with a collapse in public trust of professionals, exacerbated by the fact that we cannot avoid reliance on strangers in an increasingly globalised world, leading to the idea that some procedural substitute for personal trust is required. Equally important, perhaps, has been increased cynicism, generated by a culture that has been strongly shaped by the falsehoods of advertisers and publicity agents, and the spin of politicians.

So, ethical regulation of social research is, to some degree, just one further example of the requirement that specialised occupational activities be subject to a mode of explicit procedural accountability. However, another major driver behind the rise of ethical regulation of social research seems to have been a concern on the part of funding bodies, in the United Kingdom principally the Economic and Social Research Council, as well as universities, that they could be open to legal prosecution and compensation claims should any research they fund, or researchers they employ, be deemed to have
AQ2 caused harm (Dingwall, 2008; Hedgecoe, 2016; van den Hoonaard, 2011). It is at least partly to defend themselves against this perceived threat, in an increasingly litigious society, that they have turned to the establishment of

ethics committees to vet research proposals, viewing these as offering some legal defence and allowing them to deflect blame onto individual researchers where there has been deviation from laid down procedures.[1]

As already noted, moves towards ethical regulation of research initially arose in the context of medical and psychological research, including that involving animals, where, as a result of the growth of medical complaints, and of campaigns by animal rights activists, there was perceived to be an increasingly severe risk of legal challenge. However, extension of the remit of ethics committees across most social research has prompted considerable criticism: many social researchers argue that the new regulatory procedures have introduced significant barriers into the research process, as well as delays. Some have also insisted that these procedures are unnecessary, counterproductive (in the sense that, in practice, they are likely to increase the chances of unethical practice), and are themselves unethical, being an infringement of the academic freedom that is essential if sound research is to be pursued (see, for example, Dingwall, 2006; Feeley, 2007a; Hamburger, 2007; Hammersley, 2009; Katz, 2007; Schrag, 2010; Shweder, 2006; Traianou, 2015; van den Hoonaard, 2011). Discussing the US context, Zywicki (2007, p. 866) writes the following:

> Virtually all commentators who have studied the IRB system as it currently operates […] believe that the costs of the system […] vastly exceed the benefits, especially when the opportunity cost of researchers' and IRB panellists' time is taken into account. There is little hard evidence that IRBs, as they are currently composed, […] create more than trivial amounts of public value in terms of reducing the risk of dangerous or unethical research, or that less burdensome alternatives could not perform the same functions more efficiently. […] By contrast, there are several well-known examples of IRB lapses that permitted dangerous research to occur, notwithstanding compliance with the onerous IRB process. At the same time, there are many examples of innocent researchers caught in the Kafkaesque world of IRB procedures.

Meanwhile, Coe (2007, p. 724) declares that 'the IRB movement began with a noble purpose but has degenerated into a tyranny that must be overthrown'.

One component of this criticism has been sometimes an emphasis on the essential role of phrónēsis (wise judgement) in social research, as in other professional activities (see Dunne, 1997). It has been argued that, because this is necessary if research is to be pursued well, the sort of transparency demanded by ethical regulation is impossible. More than this, there is significant potential for current attempts to regulate the ethics of research to have undesirable effects on the moral character of researchers, leading them to become primarily concerned with whether or not they are compliant with established rules or procedures rather than with making good ethical and methodological judgements. And these two concerns will often not be compatible. Whatever the quality of deliberation that takes place within an ethics

committee, the fact that researchers are virtually forced to comply with its decisions will short-circuit any process of phrónēsis on their part – at least in the initial planning stage of the research, and perhaps later as well.

THE CONCEPT OF PHRÓNĒSIS

Aristotle argued that governance – from state decision-making to the running of a household – relies on phrónēsis. The meaning of this Greek word can, to some degree, be rendered in English by the concept of skill, especially since we talk of social as well as of physical skills. Skills are learned via lengthy periods of experience and practice, perhaps under the guidance of someone who already has them, this perhaps being accompanied by reflection on past experience that is directed towards facilitating improved performance in the future. Thus, skill does not amount to following a set of rules, even though 'rules of thumb' can be used to facilitate and refine skilful practice (see Dreyfus, 2004; Dreyfus & Dreyfus, 1986; see also Eraut, 1994). However, the notion of skill omits an important element from the meaning given to the term 'phrónēsis' by Aristotle: it is not just a matter of skill but also of virtue (see Hammersley, 2018; Macfarlane, 2009; Pring, 2001). What Aristotle means by an activity being done well is not just that actions are effective in achieving a goal but also that they are performed in ways that are good in a broader sense than this: that they exemplify and respect all human ideals. Furthermore, not the least part of this is that *how* the activity is performed must be good for the person engaged in it: it must form part of a good life for that person. Aristotle argues that only those who act in ways that contribute to a good life for themselves will be acting ethically. Indeed, this is in large part what the term 'ethical' means for him.

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How far can this notion of phrónēsis be applied to the task of carrying out social research, and to research ethics specifically? We can think of human activities as being ranged along a dimension, or set of dimensions, of increasing complexity. It seems likely that the more complex the activity, the greater the need for phrónēsis. There are various aspects of this complexity, such as the following:

1. Interpretation may be required regarding what would count as achieving the goal(s) of the activity, and about what are the proper constraints operating on its pursuit.
2. Conflicting goals or concerns may need to be taken into account.
3. The situations faced may not conform to standard types in which standard 'treatments' can be applied.

suit of activities at one end of this spectrum can be reduced to specific procedures or rules, at least to some degree. However, towards the other end, it becomes increasingly difficult to do this, and doing social research falls into this category.

Some kinds of research, especially those involving qualitative methods, display these kinds of complexity in the sharpest form. This is because they require the collection of unstructured data through open-ended interviews, participant observation in 'natural' settings over which the researcher has little control. In the latter case, access may need to be negotiated if the relevant settings are to be observed, and interpersonal relations will need to be established and maintained with participants in those settings. What this will entail, and what problems may arise, cannot be anticipated with much accuracy; and judgements about what it is best to do will have to take account of particular events in the settings and of the evolving relationships of the researcher with gatekeepers and participants. Both methodological and ethical considerations are involved here. Indeed, while these two sorts of issues are analytically distinct, in practice these are closely intertwined: when researchers make decisions in the field they must take account of both these dimensions and of how they relate to one another, as well as of prudential issues such as those relating to their own safety.

In light of this, it should be clear that there are many respects in which the concept of phrónēsis captures important features of what is involved in social research. Above all, there is an unavoidable need for situational judgement: decisions have to be tailored to particular situations, involving judgements about what is more and what is less important in the circumstances, and therefore what should be foregrounded and what backgrounded (see Ebrahim, 2010; Flewitt, 2005; Simons & Usher, 2000). Equally necessary are the judgements about the likelihood of various outcomes, of what is likely to lead to success, of the probable extent of benefits, or the risks and likely severity of harms. In other words, judgements have to be made about what is proportionate and appropriate in all these respects, given the particular situations faced. Moreover, as already noted, these situations do not come in standard forms, nor are ethical issues – if what is meant by this phrase is 'what is proper in dealing with other people' – the only relevant considerations.

THE CONFLICT WITH ETHICAL REGULATION

There are two assumptions built into the process of ethical regulation that are at odds with the idea that researchers must exercise phrónēsis. First, it

assumes that ethical issues can, and should, be identified at the beginning of the research process, with specific strategies for responding to them identified. Ethics committees will usually only give the green light to a project if potential ethical (and indeed methodological) problems, along with ways of dealing with them, have been spelt out in the initial proposal. In other words, an ethical and methodological template must be set up at the beginning, and it is expected that this will be followed in the research process itself.

However, it should be clear from what has been said above, and from even the most superficial experience of the research process, that not all problems can be anticipated, that some that are anticipated do not arise, and that even when problems have been anticipated they will often take forms that require new thinking about how to handle them in the specific circumstances in which they occur. As already noted, this is especially true in the case of qualitative inquiry, where research does not and cannot involve formulating a research design, and then simply implementing it. Participant observation in natural settings requires continual negotiation of access to data, and is therefore subject to various contingencies, over many of which the researcher has little control. Even in the case of interviews, these are usually relatively unstructured in character, and often carried out in settings that are not controlled by the researcher. All these features make it difficult to anticipate what will happen at various stages of the research process and to plan in any detail how ethical issues will be dealt with. To one degree or another, this applies to the practice of *all* forms of social research as opposed to textbook accounts of them.

The second feature of ethical regulation which is at odds with the practical nature of research, and its reliance on phrónēsis, is the assumption that what is and is not the 'best practice' can be made fully explicit. This is not possible because, like other professional activities, research necessarily depends upon the personal capacity to make decisions in which a variety of relevant considerations must be weighed against one another and given appropriate interpretations and priority in particular circumstances. The grounds for these decisions cannot be made fully explicit in ways that would be accessible to someone with little experience of the kind of research involved and/or of the situation in which it was carried out. There is a parallel here with the inability of a doctor to explain in 'transparent' terms how she judges what particular sets of symptoms indicate, or of a social worker to make explicit why she 'knows' that something is wrong during a family visit even when there are no obvious signs. It is not that these matters are beyond all expression, but rather that no formulation can make their full significance clear to the lay person (see Montgomery, 2006).

The key problem here is that members of ethics committees, not just 'lay members' but most members, will not have this capacity because they do not

have the relevant background knowledge and experience: they will not always have had practical experience with the methods being proposed in a particular study, and they are even less likely to have detailed substantive knowledge of the setting(s) in which the research will be carried out. As a result, most of them would not be well placed even to judge retrospective accounts of decisions that had been made in a piece of research. Yet, as already noted, in fact they are being asked to make a judgement *prospectively* on the basis of a researcher's and their own anticipations of what problems might arise and how these could best be dealt with. I suggest that it is near impossible to do this well with any reliability. This is purportedly done on the basis of various codes and procedural statements that are taken properly to govern all ethical judgements about research practice. These amount to an 'abridgement of the contingencies and vicissitudes of practice that aspires to be but can never succeed in becoming an authoritative, prescriptive guide for practice' (Gray, 2009, pp. 78–79).[2]

Moreover, very often, 'best practice' amounts to what has been called moralism: 'the vice of overdoing morality' (Coady, 2005, p. 101; Hammersley & Traianou, 2012, Conclusion).[3] In the case of ethical regulation, moralism refers to the requirement that researchers adhere to 'high', perhaps even to 'the highest', ethical standards, these being specified in terms of abstract principles whose implications for particular cases are regarded as closely determined in character – in effect, they amount to injunctions. Appeal to high, or even the highest, ethical standards is routine in the rhetoric around ethical regulation. For example, the UK Research Integrity Office (UKRIO, 2009, p. 14) states that 'we promote integrity and high ethical standards,' and recently produced a document which places emphasis on the 'training and development' of researchers in order to ensure that they meet the 'highest standards' of 'research conduct'.[4] This document is entirely about compliance, with no hint that there could be problems or disagreements about what would and would not be ethical, or what would be justifiable. For instance, one concrete requirement is that consent be obtained from research participants. But as I have argued elsewhere, written consent is not always desirable (see Hammersley & Traianou, 2012, Chapter 4) and in the context of covert research it is impossible. Amongst social scientific researchers, there has been much debate around whether *covert* research is ever justified and, if so, under what conditions (Bulmer, 1982; Herrera, 1999; Leo, 1995). Some commentators argue that it is virtually never legitimate (Bok, 1978; Shils, 1956; Warwick, 1982), while others insist that covert research is an acceptable and necessary strategy in particular research settings (Calvey, 2000, 2008, 2017; Douglas, 1976; Homan, 1980). These discussions have identified a range of considerations that need to be taken into account in making judgements

about this issue. The discourse of ethical regulation makes it almost impossible for covert research to be pursued. In my view, however, rather than being formulated either as a general prohibition or even as a globally permissive statement, any judgement about whether or not covert research is legitimate must be made in relation to specific cases. This is because covertness can vary significantly, as too can conditions in the field that are relevant to making a judgement about its legitimacy.

In statements like those from UKRIO (2009), it is apparently assumed that we cannot be 'too ethical', and that social research involves a high risk of severe ethical dangers for the people studied so that rigorous precautions must be taken to avoid these. Yet, since there are often conflicting principles, it is by no means clear what would or would not be ethical, or more rather than less ethical, in some cases. Furthermore, there is very often a tension between ethical considerations relating to the people being studied and the methodological requirements of the research, so that some sort of trade-off is required between the two. Once again, this must necessarily be done in a way that takes account of the distinctive features of the particular situation faced. For reasons already explained, this is not the sort of judgement that ethics committees can make.

It is also necessary to recognise that in the world in which researchers must operate, the other parties with whom they have to deal may well be committed to ideals and interests that are at odds with the requirements of social research in one respect or another. One of the problems with the kind of moralism being criticised here is that it is premised on an unrealistic view of human nature and society. Conflicting ideals and interests, and struggles over these, are endemic in social life; and, as a result, the use of coercion, manipulation and deception is widespread. Given this, moralism is not a viable basis for carrying out any activity, including qualitative inquiry (Douglas, 1976; Duster, Matza, & Wellman, 1979; Littrell, 1993). If researchers are to get their work done in *the world as it is* and produce reliable knowledge, they will often have to engage in actions that fall short of 'the highest standards'.

In short, what can reasonably be expected of social researchers is *not* adherence to the highest standards but rather that their behavior is *acceptable* in terms of practical values, *taking account of the constraints operating in the situations concerned*. It is also important to remember that social scientists are members of a profession operating *within* societies and that all they can distinctively aspire to is a high commitment to a specific goal and to the values associated with this, not some general ethical superiority. Perhaps it is necessary to emphasise that this does not amount to a recommendation of expediency, even less to the conclusion that 'anything goes'. In fact, adopting

a more realistic conception of what research ethics entails ought to lead to more careful and realistic judgements about what can and should be done in the field.

Interestingly, all this suggests a slightly different approach to the notion of phrónēsis from that characteristic of Aristotle, one that takes in Machiavelli's rather different conception of 'virtue'. Contrary to what is sometimes assumed, Machiavelli did not propose that rulers and other political agents should pursue evil ends. Rather, he argued that they will often have to use means that are regarded as morally questionable, such as deception, and even sometimes those that are abhorrent, such as war, *in order to pursue effectively ends that are good*. According to Strauss (1987, p. 84), Machiavelli was the first of the early modern political philosophers whose ethical thinking starts not from 'how people ought to live', in the manner of the ancients, but rather from 'how people actually live'. In Max Weber's terms, Machiavelli rejected an 'ethics of ultimate ends' in favor of an 'ethic of responsibility' (see Bruun, 2007, pp. 250–259). It seems to me that there is scope for applying this argument in the context of research (Hammersley & Traianou, 2011). However, the contrast between this Machiavellian approach and the Aristotelian notion of phrónēsis should not be exaggerated: in both cases the emphasis is on the need to develop wise and skilful judgement in dealing, in the best way possible, with the contingencies that arise, taking account of all the considerations that are relevant, including those that conflict with one another. This is not a matter of the end justifying the use of any means but rather that both ends and means must be ranked in terms of desirability (on various grounds), with phrónēsis being deployed to 'weigh' the relative desirability of achieving a particular end against the use of means of varying degrees of likely effectiveness and desirability.

CONCLUSION

The demand for transparent accountability is understandable. There are genuine, and potentially serious, ethical dangers involved in the pursuit of some kinds of research; and, where these arise, regulation will certainly be necessary. More generally, the second half of the twentieth century witnessed a gradual erosion of public trust in claims made by professionals to be devoted solely to carrying out their tasks well, and thereby in their capacity to regulate themselves. Indeed, some sociologists and economists came to view professionalism as an ideology designed to enable occupations to increase their power over clients, over other occupations, and in relation to other

organisations, including nation-states (see, for example, Larson, 1977). In this context, it might be argued that use of the concept of phrónēsis amounts to little more than an appeal to professional mystique, allowing bias in the service of self-interest.

Moreover, in the context of large, complex, and, to a large degree, globalised societies, we are forced to rely on anonymous others, where there can be no personal trust. While professional status and expertise at one time provided a substitute for this, in a world where status hierarchies are increasingly under challenge, and where trust has been eroded by fraudulent advertising and political spin, this kind of trust is undercut. As a result, there have been increasing demands for 'transparent accountability', in other words, the basis for professional judgements be made explicit so as to be open to judgement by others. This was, of course, a central theme in the evidence-based practice movement (Wieringa, Engebretsen, Heggen, & Greenhalgh, 2017). While such accountability may not be possible, the concerns lying behind the call for this are by no means all misguided, some are genuine.

At the same time, we must not allow this to blind us to the problems involved in doing research well, and the necessary reliance of this on situational judgements, albeit guided by principles. I have spelt out the implications of this for research ethics. There is no form of transparency that will allow others to see, or to be completely assured, that what is being done by professionals, including researchers, conforms to the 'best practice', in the sense of what it would be best to do in the specific circumstances faced. And pretending that there is some means of doing this, by enforcing procedures relying on this assumption, for instance, in the form of ethical regulation, damages the practice involved. Any attempt to deal with the ethical dangers associated with research must be proportionate, and should respect the limits of what is possible – rather than simply assuming that transparent accountability must be achievable, and that it will eliminate all uncertainty and risk. The risks associated with most social research are very different from, and arguably less severe than, those involved in testing medical treatments, which is where the pressure for ethical regulation originally arose. Furthermore, non-experimental research, and especially that involving the collection of unstructured data in the field, is much less open to prospective, procedural control than experimental work. Indeed, attempts to achieve this will almost always be counterproductive.[5]

It is also worth emphasising that researchers have never been free to do as they wish, contrary to what often seems to be assumed about the past. Prior to the spread of ethical regulation, they nevertheless operated in situations where legal rules applied; where other agents, notably gatekeepers but also

sometimes research participants, had considerable power over the research process; and where there was always the prospect that colleagues would bring what they regarded as unethical behaviour to public attention, resulting in reputational damage for the researcher concerned, at the very least.[6] Any justification put forward for ethical regulation needs to demonstrate that these curbs were, and are, inadequate in the case of social research. It also needs to show that ethical regulation works in minimising, or at least reducing, unethical behaviour on the part of researchers. Yet, there is little evidence that it does; indeed, determining this is fraught with difficulties because of the variable judgements that can be made about what is and is not ethical. These judgements are rarely a matter of the straightforward application of a single principle, and as a result there is considerable scope for reasonable disagreement about what would and would not be ethical. This is precisely why phrónēsis is required, and that's why the attempt to achieve 'transparency' is unrealistic, while attempts to achieve it will very often have damaging consequences.[7]

It is perhaps necessary to emphasise that even if research necessarily depends upon phrónēsis, this does not rule out the desirability of guidelines, such as the 'codes' developed by professional associations. However, these must recognise that ethical considerations – specifically those relating to how researchers deal with the people they study – are multiple and potentially in conflict, and that they are not the only considerations that must be taken into account in doing research. Above all, codes must acknowledge that researchers have an obligation to pursue worthwhile knowledge effectively, and in a way that is *prudent*, for instance, keeping any risk of serious harm to themselves below an acceptable threshold. Furthermore, the pressure built into the specification of guidelines towards treating these as rules that should *govern* research activity must be resisted. Yet, this is precisely the tendency that ethical regulation institutionalises.

The role of phrónēsis does not eliminate all the functions of ethics committees, but they should no longer be regulatory bodies determining whether or not research projects can go ahead. Instead, they ought to be forums in which researchers are required to outline and defend their research proposals, or to defend research they have already carried out where this has generated ethical concerns.[8] In this way ethics committees could play an important role in facilitating the development of phrónēsis on the part of researchers, since they would force greater attention to methodological and ethical issues, and expose individual researchers to diverse views about these. At present, the regulatory function of ethics committees seriously inhibits this process, and thereby damages social research.

NOTES

1. Even though it is external funding bodies that instituted the requirement of ethical approval, most universities require almost all social research to go through an ethics committee, even that which is not externally funded, or not funded by an external agency that requires a research proposal to be approved by an ethics committee.
2. Gray is here discussing philosopher Oakeshott's (1962) critique of what he labels "rationalism."
3. There is a parallel between moralism and the religious enthusiasm that Locke (1975, Chapter 19) and others objected to in the seventeenth century as part of their defence of political liberalism.
4. See http://ukrio.org/wp-content/uploads/UKRIO-Code-of-Practice-for-Research.pdf. Accessed on June 23, 2017.
5. In addition, Stark (2011, p. 2, and *passim*) has shown that in medicine ethical regulation "has served to enable research as much as to restrict it," including some that many would regard as unethical.
6. For examples of cases where colleagues have called one another to account in the context of social research, see Hammersley and Traianou (2012, Chapter 1).
7. The case of medical research, and indeed any experimental research that involves treatments that carry with them substantial risks of harm, as well as potential benefit, is different from that of most social research. Here the potential dangers of ethical regulation may be outweighed by the risks carried by the research. However, it is important to note that even here regulation cannot deliver transparent accountability, nor does it necessarily prevent harm. Of course, ethical regulation can have beneficial consequences in terms of prompting researchers to take more account of ethical considerations, to recognise problems that they had overlooked, etc. However, it seems likely that these benefits could be gained in other ways.
8. For various other proposals for reform, usually less radical, see Carpenter (2007), Feeley (2007b), Hyman (2007), Marlow and Tolich (2015), Stark (2007), and van den Hoonaard and Hamilton (2016).

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